

Legislative Regulation Review Committee

2010-035

Department of Social Services

PAYMENT FOR HEARING AIDS & SUPPLIES

R-39 REV. 04/04
IMPORTANT: Read
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instructions may
cause
disapproval of
proposed
Regulations.

STATE OF CONNECTICUT
REGULATION
OF

Name of Agency
Department of Social Services

Subject Matter of Regulation
Requirements for Payment for Hearing Aids and Supplies

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 17b-262-792 to 17b-262-803, inclusive, as follows:

(NEW) Section 17b-262-792. Scope

Sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies set forth the Department of Social Services requirements for payment to providers of hearing aids and supplies that are medically necessary and medically appropriate provided to clients who are determined to be eligible to receive such goods and services under Medicaid pursuant to section 17b-262 of the Connecticut General Statutes.

(NEW) Sec. 17b-262-793. Definitions

As used in sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Actual acquisition cost" means the price paid to a manufacturer by a hearing aid provider for a hearing aid or accessory, as documented on the manufacturer's invoice, less any applicable discounts or rebates. The actual acquisition cost shall be verified by a copy of the manufacturer's invoice;
- (2) "Advanced practice registered nurse" means a person who is licensed pursuant to section 20-94a of the Connecticut General Statutes;
- (3) "Audiologist" means a person who is licensed under Chapter 399 of Connecticut General Statutes as an audiologist;
- (4) "Audiometric report" means a written report that describes the results of measurement of overall performance in hearing, understanding and responding to speech for a general assessment of hearing and an estimate of the degree of practical handicap. The results are recorded on a graph or grid, also called an audiogram, to show the results and the impact of the hearing loss;
- (5) "Chronic disease hospital" means "chronic disease hospital" as defined in section 19-13-D1(b)(2) of the Regulations of Connecticut State Agencies;
- (6) "Client" means a person eligible for goods or services under the Medicaid program;
- (7) "Commissioner" means the Commissioner of Social Services or his or her designee;
- (8) "Department" means the Department of Social Services or its agent;
- (9) "Dispensing fee" means a one-time fee pertaining to the selection, orientation, training in proper use, fittings and adjustments required within the first year of service;
- (10) "Documented in writing" means handwritten, typed or computer printed;

- (11) "Early Periodic Screening, Diagnosis and Treatment (EPSDT) special services" means services provided in accordance with subdivision 1905(r)(5) of the Social Security Act;
- (12) "Ear specialist" means any licensed physician who specializes in diseases of the ear and is medically trained to identify the symptoms of deafness in the context of the total health of the patient, and is qualified by special training to diagnose and treat hearing loss. Such physicians are also known as otolaryngologists, otologists and otorhinolaryngologists;
- (13) "Hearing aid" means any wearable instrument designed or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, excluding batteries and ear molds;
- (14) "Hearing aid dealer" means a "licensed hearing instrument specialist" as defined in section 20-396 of the Connecticut General Statutes or a "hearing aid dealer" as described in section 20-406 of the Regulations of Connecticut State Agencies;
- (15) "Hearing aid supplies" means those items purchased by the provider that are necessary for the proper operation of the hearing aid;
- (16) "Hearing testing" means the measurement of an individual's level of hearing for the purpose of determining if a hearing aid is medically necessary and medically appropriate as set forth in section 20-406-9(f) of the Regulations of Connecticut State Agencies;
- (17) "Home" means the client's place of residence including, but not limited to, a boarding home, community living arrangement or residential care home. "Home" does not include facilities such as hospitals, chronic disease hospitals, nursing facilities, intermediate care facilities for the mentally retarded or other facilities that are paid an all-inclusive rate directly by Medicaid for the care of the client;
- (18) "Hospital" means a "short-term hospital" as defined in section 19-13-D1(b)(1) of the Regulations of Connecticut State Agencies;
- (19) "Intermediate care facility for the mentally retarded" or "ICF/MR" means a residential facility for the mentally retarded licensed pursuant to section 17a-227 of the Connecticut General Statutes and certified to participate in the Medicaid program as an intermediate care facility for the mentally retarded pursuant to 42 CFR 442.101, as amended from time to time;
- (20) "Licensed practitioner" means a physician, a physician assistant or an advanced practice registered nurse;
- (21) "Medicaid" means the program operated by the department pursuant to section 17b-262 of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act;
- (22) "Medical appropriateness" or "medically appropriate" means health care that is provided in a timely manner and meets professionally recognized standards of acceptable medical care; is delivered in the appropriate setting; and is the least costly of multiple, equally-effective, alternative treatments or diagnostic modalities;
- (23) "Medical evaluation" means an examination to ensure that all medically treatable conditions that may affect hearing are identified and treated first and the client is an appropriate candidate for a hearing aid;
- (24) "Medical necessity" or "medically necessary" means health care provided to correct or diminish the adverse effects of a medical condition or mental illness; to assist an individual in attaining or maintaining an optimal level of health; to diagnose a condition; or to prevent a medical condition from occurring;

- (25) "Nursing facility" means "nursing facility" as defined in 42 USC 1396r(a), as amended from time to time and licensed according to section 19-13-D8t(b) of the Regulations of Connecticut State Agencies as a chronic and convalescent home or rest home with nursing supervision;
- (26) "Physician" means a person licensed pursuant to section 20-10 of the Connecticut General Statutes;
- (27) "Physician assistant" means "physician assistant" as defined in section 20-12b of the Connecticut General Statutes;
- (28) "Practice of fitting hearing aids" means "practice of fitting hearing aids" as defined in section 20-396 of the Connecticut General Statutes;
- (29) "Prescription" means an original order documenting medical necessity issued by a licensed practitioner that is documented in writing and signed and dated by the licensed practitioner issuing the order;
- (30) "Prior authorization" or "PA" means approval from the department for the provision of a service or the delivery of goods before the provider actually provides the service or delivers the goods;
- (31) "Provider" means the vendor or supplier of a hearing aid and supplies who is enrolled with the department as a hearing aid dealer;
- (32) "Replacement of a hearing aid" means any occasion in which a new hearing aid is to take the place of a prior hearing aid; and
- (33) "Usual and customary charge" means the amount that the provider accepts for the service or procedure in the majority of non-Medicaid cases. If the provider varies the charges so that no one amount is accepted in the majority of cases, usual and customary shall be defined as the median charge. Token charges for charity patients and other exceptional charges are to be excluded.

(NEW) Sec. 17b-262-794. Provider participation

To enroll in the Medicaid program and receive payment from the department, providers shall comply with sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies and sections 17b-262-522 to 17b-262-532, inclusive, of the Regulations of Connecticut State Agencies.

(NEW) Sec. 17b-262-795. Need for service

- (a) The department shall pay for the purchase or repair of a medically necessary and medically appropriate hearing aid or supply, subject to the conditions and limitations described in sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies.
- (b) All clients who have been identified as having a hearing loss, such as through the performance of a hearing screening, shall receive a medical evaluation by a licensed practitioner, preferably an ear specialist, before a hearing aid is considered to ensure that all medically treatable conditions that affect hearing are identified and treated first. The medical evaluation shall have taken place within the six-month period prior to the date in which the client receives the first hearing aid and may, at the licensed practitioner's discretion, be accompanied by a prescription for a hearing aid.
- (c) Medical necessity shall be documented by the provider and shall include:

- (1) An estimate of the client's ability to benefit from the use of a hearing aid as demonstrated by improvement in speech discrimination or environmental awareness of sound;
 - (2) test results showing the client's current hearing level, and an estimate of improvement in speech discrimination or environmental awareness of sound;
 - (3) evidence of a medical evaluation signed by a licensed practitioner; and
 - (4) a written prescription signed by a licensed practitioner or an order by an audiologist or hearing aid dealer.
- (d) In addition the provider shall document.
- (1) the commitment on the part of the appropriate caregiver to assist the client in the use and care of the hearing aid, if the client is incapable of caring for the hearing aid on his or her own; and
 - (2) the status of any previous hearing aid used by the client.
- (e) The department shall pay for hearing aids and supplies for a client who lives at home or in a nursing facility, ICF/MR, hospital or chronic disease hospital, except as limited by sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies.
- (f) All hearing aids dispensed to a child under eighteen years of age shall meet the requirements of section 20-406-10 of the Regulations of Connecticut State Agencies.
- (g) Hearing testing shall meet the requirements of section 20-406-9(f) of the Regulations of Connecticut State Agencies and shall be performed within ninety days prior to the date of delivery to the client.
- (h) There shall be a thirty-day trial period for a hearing aid in accordance with section 20-402a of the Connecticut General Statutes; the cancellation fee applies to the total acquisition cost and dispensing fee.
- (i) An audiometric report to support medical necessity and medical appropriateness is required for the purchase of all hearing aids.
- (j) A hearing aid shall be replaced only when the prior hearing aid is no longer medically appropriate, has been lost, stolen or damaged beyond repair.
- (k) For a hearing aid that has been lost, stolen or damaged beyond repair, the provider shall document:
- (1) the disposition of the prior hearing aid and statement of circumstances of loss or damage;
 - (2) in the case of damage, a statement from the hearing aid dealer or audiologist that the hearing aid cannot be repaired;
 - (3) the measures to be taken by the client, family or other caregiver, to prevent future loss or damage.
- (l) For a hearing aid that is no longer medically appropriate the provider shall document the significant change in the client's hearing loss to warrant the replacement.

(NEW) Sec. 17b-262-796. Eligibility

Payment to a provider for hearing aids and related supplies is available for clients who have a need for such products and services which meets the department's definition of a hearing aid when the items are medically necessary and medically appropriate, subject to the conditions and limitations set forth in sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies.

(NEW) Sec. 17b-262-797. Services covered and limitations

- (a) The department shall maintain a fee schedule for hearing aids and supplies, subject to the conditions and limitations set forth in sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies. This fee schedule is designed to meet the needs of most Medicaid clients. An item is not covered unless it is on the fee schedule except as EPSDT special services.
- (b) The department shall pay for the servicing, repair or replacement of hearing aids and supplies, provided that any manufacturer or dealer's warranty has been exhausted. The provider shall first utilize existing warranties that cover required servicing, repairs and replacement.
- (c) The department shall pay for one hearing test provided by either:
 - (1) a hearing aid provider, who is not an audiologist; or
 - (2) an audiologist, ear specialist or any other physician under contract to, or employed by a hearing aid provider, who does not separately bill the department for any other hearing test or audiological examination.

(NEW) Sec. 17b-262-798. Goods and services not covered

The department shall not pay providers for:

- (a) any hearing aid that is of an unproven, experimental or research nature or for services in excess of those deemed medically necessary or medically appropriate by the department to treat the client's condition or for services not directly related to the client's diagnosis, symptoms or medical history;
- (b) any hearing aid prescribed and ordered for a client who:
 - (1) dies prior to delivery of the item; or
 - (2) is not otherwise eligible on the date of delivery. It shall be the provider's responsibility to verify that the client is eligible on the date the item is delivered;
- (c) the purchase or repair of a hearing aid necessitated by inappropriate, willful or malicious misuse on the part of the client as determined by the department;
- (d) any hearing aid or supply provided for cosmetic reasons;
- (e) a hearing aid for a client in a nursing facility, ICF/MR, chronic disease hospital, hospital or other facility if the hearing aid is included in the facility's per diem Medicaid rate; or
- (f) a hearing aid that can be billed to another payer.

(NEW) Sec. 17b-262-799. Payment and payment limitations

- (a) Fees shall be the same for in state, border and out-of-state providers.
- (b) Payment shall be made at the lowest of:

- (1) the provider's usual and customary charge;
 - (2) the lowest Medicare rate;
 - (3) the amount in the applicable fee schedule as published by the department pursuant to section 4-67c of the Connecticut General Statutes; or
 - (4) the amount billed by the provider.
- (c) The department shall reimburse a provider when all the requirements of sections 17b-262-792 to 17b-262-803, inclusive, of the Regulations of Connecticut State Agencies have been met.
- (d) The fee for a hearing aid includes an initial one-year manufacturer's warranty against loss, theft or damage.
- (e) Hearing aids provided shall be new and guaranteed against all defects in workmanship and materials for at least one year from the date of delivery of the hearing aid to the client.
- (f) The department shall pay providers for:
- (1) the actual acquisition cost of a hearing aid to the provider up to the maximum amount allowed by the department's fee schedule;
 - (2) a dispensing fee up to the maximum allowed by the department's fee schedule; and
 - (3) hearing testing for the purpose of fitting a hearing aid.
- (g) The department shall pay for custom ear molds for a client who dies or is not otherwise eligible on the date of delivery provided the client was eligible on the date the item was ordered.
- (h) If the cost of repairs to any hearing aid exceeds its replacement cost, the hearing aid shall be replaced.
- (i) The provider shall meet the exact specifications of a hearing aid selected by an audiologist, ear specialist or licensed practitioner.

(NEW) Sec. 17b-262-800. Prior authorization

- (a) The department shall require PA for:
- (1) any hearing aid identified on the department's fee schedule as requiring PA; and
 - (2) EPSDT special services.
- (b) To receive reimbursement from the department, a provider shall comply with all prior authorization requirements. The department, in its sole discretion, shall determine what information is necessary to approve a prior authorization request. Prior authorization does not, however, guarantee payment unless all other requirements are met.
- (c) A PA request, on a form and in the manner specified by the department, shall include documentation of medical necessity and shall be signed by the provider.
- (d) A prescription is required from a licensed practitioner for all services and goods provided as EPSDT special services. A copy of the prescription from the licensed practitioner may be attached to the completed PA request in lieu of the actual signature of the licensed practitioner on the PA request form. The licensed practitioner's original prescription shall be on file with the provider and be subject to review by the department.

(NEW) Sec. 17b-262-801. Billing procedure

- (a) Claims from providers shall be submitted on a hard copy invoice or electronically transmitted to the department in a form and in a manner specified by the department and shall include all information required by the department to process the claim for payment.
- (b) A claim submitted for hearing aids and supplies that does not require prior authorization shall include the national provider identifier number of the licensed practitioner or audiologist prescribing the hearing aid, if applicable.

(NEW) Sec. 17b-262-802. Documentation

- (a) Providers shall maintain all fiscal and medical records related to services and goods rendered or delivered to clients.
- (b) All required documentation, including evidence of a medical evaluation for a hearing aid, results of audiometric evaluations, results of any testing to support the need and expected improvement and documentation of all notes related to fittings and adjustments shall be maintained for at least five years in the provider's primary place of business and shall be subject to review by the department.
- (c) The department shall accept, where feasible, faxed or electronic medical evaluations and other orders. If evidence indicates that the documentation being reviewed has been falsified, or the provider is unable to provide adequate assurance of the medical necessity of the items or services, the department may request additional information, including an original signature, in order to obtain that assurance.
- (d) Any documentation, including a medical evaluation, that is electronically submitted to a vendor shall identify the sender and display the sender's fax number and date. The department may request the original medical evaluation and results of the hearing test whenever medical necessity is in question.
- (e) In the event of a dispute concerning a service or a hearing aid provided, documentation shall be maintained until the end of the dispute or five years, whichever is longer.
- (f) Failure to maintain all required documentation shall result in the disallowance and recovery by the department of any amounts paid to the provider for the hearing aid or service for which the required documentation is not maintained or provided to the department upon request.
- (g) The provider shall have on file the manufacturer's purchase invoice for any hearing aid dispensed to a client, for any repairs or servicing and for any processing charges associated with replacement of a hearing aid under warranty.
- (h) Providers shall maintain signed receipts for all goods and services that are provided to a client regardless of whether the item is delivered or picked up by the client or client's representative. The receipt for hearing aids, services and supplies shall at a minimum, contain the following:
 - (1) the provider's name;
 - (2) the client's name;
 - (3) the client's address;
 - (4) the date of delivery; and

- (5) itemization of the hearing aid, service or supplies delivered, including, but not limited to:
 - (A) product description;
 - (B) brand name;
 - (C) model name and number, if applicable;
 - (D) serial number, if applicable;
 - (E) the quantity delivered;
 - (F) the amount billed per hearing aid; and
 - (G) any warranty in effect.
- (i) A prescription or order for hearing aids and supplies, regardless of the format used, shall, at a minimum, contain the following:
 - (1) the client's name, address and date of birth; and
 - (2) the diagnosis for which the hearing aid is required.
- (j) Evidence of the medical evaluation shall, at a minimum, include the following:
 - (1) the client's name, address and date of birth;
 - (2) the date of the physician's medical evaluation;
 - (3) the prescribing physician's signature and date of his or her signature; and
 - (4) a statement that the client's hearing loss has been medically evaluated and that the client may be considered a candidate for a hearing aid.
- (k) All documentation requirements shall be subject to review by authorized department personnel upon request.

(NEW) Sec. 17b-262-803. Other

- (a) Where brand names or stock or model numbers are specified on the prescription or the PA, no substitution shall be permitted without the written approval of the department.
- (b) The provider shall instruct the client, his or her family or a designated representative on the proper use and care of the hearing aid.
- (c) The provider shall maintain a written usual and customary price list that details individual product and service charges. This list, including updates along with any required manufacturer's list pricing, shall be available for review by the department.
- (d) A hearing aid purchased by the department shall become the property of the client on the date of delivery to the client.

Sec. 2. Section 17-134d-45 of the Regulation of Connecticut State Agencies is repealed.

Statement of Purpose: The Department of Social Services is adopting in regulation format its policy for payments of hearing aids and supplies. The purpose is to make technical changes, add definitions as necessary and incorporate current policy and practice into a regulation. Changes include: (1) incorporating current practice; (2) correcting outdated references; (3) removing references to mailing addresses, telephone numbers and specific form numbers; (4) adding necessary definitions; and (5) clarifying the prior authorization process, documentation requirements and the billing process.

IMPORTANT: Read instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

REGULATION

OF

NAME OF AGENCY

Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION

Mediciad Payment for Hearing Aids

SECTION _____

Statement of Purpose: The purpose of this regulation is to adopt regulations that set forth the requirements for Medicaid payment of hearing aids. The Department of Social Services proposes to adopt regulations regarding payments of hearing aids and supplies. The proposed regulations repeal and replace section 17-134d-45 of the Regulations of Connecticut State Agencies to make changes, add definitions as necessary and incorporate current policy and practice into the proposed regulations. Changes include: (1) incorporating current practice; (2) correcting references (e.g., changing the "Department of Income Maintenance" to the "Department of Social Services"); (3) removing references to mailing addresses, telephone numbers, and specific form numbers; (4) adding necessary definitions; and (5) clarifying the prior authorization process, documentation requirements and the billing process.

Be it known that the foregoing:
Regulations Emergency Regulations
Page 2 of 2 pages

Are:
Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:
Sections 17b-262 of the General Statutes.
Section of the General Statutes, as amended by Public Act No. of the Public Acts.
Public Act No. of the Public Acts.

After publication in the Connecticut Law Journal on , of the notice of the proposal to:
Adopt Amend Repeal such regulations
(If applicable): And the holding of an advertised public hearing on day of

WHEREFORE, the foregoing regulations are hereby:
Adopted Amended as hereinabove stated Repealed

Effective:
When filed with the Secretary of the State.
(OR)
The day of

In Witness Whereof: Date 4/27/10 SIGNED (Head of Board, Agency or Commission) OFFICIAL TITLE, DULY AUTHORIZED Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with sec. 4-169, as amended C.G.S. SIGNED ALB AK 5/14/10 OFFICIAL TITLE, DULY AUTHORIZED ASST. ATT. GENERAL

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes. Date SIGNED (Clerk of the Legislative Regulation Review Committee)
Two certified copies received and filed, and one such copy forwarded to the Commission in Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.
DATE SIGNED (Secretary of the State.) BY

INSTRUCTIONS

- 1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
- 2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
- Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
- 4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.